

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION**

Dominick Alexander Brown,

Plaintiff,

v.

Aramark Food Services; Sheriff Al Cannon  
Detention Center; Chief Patrick Morris; and  
Moson Grant Meyer,

Defendants.

Case No. 4:23-cv-05598-RMG

**ORDER AND OPINION**

Before the Court is the Magistrate Judge’s Report and Recommendation (R & R) denying Plaintiff’s motion to proceed in forma pauperis (Dkt. No. 2). (Dkt. No. 5). Plaintiff filed an objection to the R & R. (Dkt. No. 7). For the reasons set forth below, the Court adopts the R & R as the order of the Court and denies Plaintiff’s motion to proceed in forma pauperis.

**I. Legal Standard**

The Magistrate Judge makes only a recommendation to this Court that has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). Where there are specific objections to the R & R, the Court “makes a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.* Where there are no objections to the R & R, the Court reviews the R & R to “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” FED. R. CIV. P. 72 advisory committee’s note; see also *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983) (“In the absence of objection ... we do not believe that it requires any explanation.”).

## II. Discussion

Plaintiff is currently incarcerated at the Sheriff Al Cannon Detention Center. On November 3, 2023, Plaintiff filed a complaint alleging, *inter alia*, that he placed an order for envelopes, pens, and snacks but did not receive everything he ordered. (Dkt. No. 1). Plaintiff alleges his First and Eighth Amendment rights have been violated. (*Id.* at 4). On November 3, 2023, Plaintiff moved to proceed in forma pauperis. (Dkt. No. 2). On November 7, 2023, the Magistrate Judge recommended denying Plaintiff's motion to proceed in forma pauperis under 28 U.S.C. § 1915(g).

“When a prisoner has previously filed at least three actions or appeals that were dismissed on the grounds that they were frivolous, malicious, or failed to state a claim upon which relief may be granted,” the Prison Litigation Reform Act’s (“PLRA”) “‘three strikes’ provision requires that the prisoner demonstrate imminent danger of serious physical injury in order to proceed without prepayment of fees.” *McLean v. United States*, 566 F.3d 391, 393-94 (4th Cir. 2009) (quoting 28 U.S.C. § 1915(g)).

The Magistrate Judge found that Plaintiff has filed approximately four cases in this Court in the past year, at least three of which comprise Plaintiff’s ‘three strikes’ under the PLRA. *See Brown v. Charleston Cnty. Bond Ct.*, No. 2:23-cv-3862-RMG, Dkt. No. 12 (D.S.C. Sept. 13, 2023); *Brown v. North Charleston City Police Dep’t*, No. 2:23-cv-03863-RMG, Dkt. No. 12 (D.S.C. Sept. 13, 2023); *Brown v. Administration of the Reserve at Wescott*, No. 2:23-cv-03864-RMG, Dkt. No. 12 (D.S.C. Sept. 13, 2023); *Brown v. Charleston Cnty. Sheriff’s Office*, No. 4:23-cv-00656-RMG, Dkt. No. 23 (D.S.C. May 1, 2023).

As a result, Plaintiff may proceed in forma pauperis only upon a showing of imminent physical harm, which requires “specific fact allegations of ongoing serious injury, or of a pattern

of misconduct evidencing the likelihood of imminent serious physical injury.” *Johnson v. Warner*, 200 F. App’x 270, 272 (4th Cir. 2006). As the Magistrate Judge correctly determined, Plaintiff has made no such showing here. Therefore, the three-strikes rule bars Plaintiff from proceeding in forma pauperis. Plaintiff’s objections are barely legible but appear to reallege the merits of his underlying claim. In other words, Plaintiff does not object to the Magistrate Judge’s analysis under 28 U.S.C. § 1915(g).

### **III. Conclusion**

Based on the reasons set forth above, the Court adopts the R & R as the order of the Court. (Dkt. No. 5). The Court orders Plaintiff to pay the filing fee within twenty-one days of this Order. If Plaintiff fails to pay the filing fee after twenty-one days, the Court orders the Clerk of Court to dismiss this action and enter final judgment.

**AND IT IS SO ORDERED.**

s/ Richard Mark Gergel  
Richard Mark Gergel  
United States District Judge

November 29, 2023  
Charleston, South Carolina